

## Claims Proceedings in Criminal and Bankruptcy Matters

Tuesday, 23 June 2009

I have received several inquiries about the Government's Preliminary Report and Amended Preliminary Report as to Restitution, which was filed in the criminal court in Virginia on May 29 and June 11, respectively. Based on my review of the report and discussion with my counsel, I understand that the Government's restitution process is governed by a Federal statute that is different from the Bankruptcy Code. Thus, the amount of, and allowable components of, claims for restitution purposes are not the same as in the bankruptcy case, and are not binding in the bankruptcy case (nor are claim amounts in the bankruptcy case binding in the restitution process). In addition, in order to be recognized in the restitution program, one must fill out and return a form that the Government has circulated. This is not the same as the proof of claim form that many have filed with the Bankruptcy Court, or with the claims agent that had been retained by the 1031 Debtors.

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